# MONTANA LEGISLATIVE HISTORY

Chapter 387 19 79

Bill H _____ S 413 Original bill & history ___C

| H. Committee on Highways | | S. Committee on Highways | |
|---|---|---|---|
| Hearing Date(s) 3/6 | ___C | Hearing Date(s) 2/15 | ___C |
| _____ | ___C | _____ | ___C |
| _____ | ___C | _____ | ___C |
| _____ | ___C | _____ | ___C |
| Date Out 3/8 | ___C | out 2/17 | |
| 3/13 | | | |

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 387

SENATE BILL NO. 473

INTRODUCED BY B. BROWN. R. SMITH, S. BROWN, E. SMITH

IN THE SENATE

| | |
|---|---|
| February 12, 1979 | Introduced and referred to Committee on Highways and Transportation. |
| February 13, 1979 | Fiscal note requested. |
| February 17, 1979 | Committee recommend bill do pass as amended. Report adopted. |
| February 19, 1979 | Fiscal note returned. |
| | Printed and placed on members' desks. |
| February 20, 1979 | Second reading, do pass. |
| February 21, 1979 | Considered correctly engrossed. |
| February 22, 1979 | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

| | |
|---|---|
| February 23, 1979 | Introduced and referred to Committee on Highways and Transportation. |
| March 13, 1979 | Intent statement attached. |
| | Committee recommend bill be concurred in. Report adopted. |
| March 14, 1979 | Second reading, concurred in. |
| March 17, 1979 | Third reading, concurred in. |

IN THE SENATE

March 19, 1979

Returned from second house. Concurred in. Sent to enrolling.

Reported correctly enrolled.

BILL NO. 473

INTRODUCED BY B. Brown R. Smith J. Brown E. Smith

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATING TO CLASS D MOTOR CARRIERS; AMENDING SECTIONS 69-12-102, 69-12-314, AND 69-12-407, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-12-102, MCA, is amended to read:

"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products thereof) if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction and production is concerned;

(d) the transportation of property, except ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;

(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard; or

(h) ambulances.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 2. Section 69-12-314, MCA, is amended to read:

"69-12-314. Class D motor carrier certificate. (1) Class D carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by

the commission authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers when applying for a new or additional authority shall file an application with the commission in accordance with the requirements of this chapter and the rules of the commission.

(2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor carrier unless the motor carrier actually engages in the transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter on a regular basis as part of the motor carrier's usual business operations."

Section 3. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, and Class B, or Class D motor carrier in this state, so far as the same shall relate to the business of transportation conducted by such motor carrier, shall at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of such Class A, and Class B, or Class D motor carriers, and every motor carrier authorized to operate as such in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such





uniform system, insofar as possible.

(2) On or before March 31 of each year, every motor carrier authorized to engage in such business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to such annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission such information as it shall require in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314."

-End-

STATEMENT OF INTENT RE: SB 473

A statement of intent is required for this bill because it creates the necessity for the adoption of additional rules under the rulemaking authority granted by 69-12-201 to carry out the amendments to 69-12-314 and 69-12-407.

It is the intent of the legislature that the Public Service Commission has the authority to make rules defining what activities will be necessary to constitute the transportation of material allowed under a Class D motor carrier certificate "on a regular basis as part of the motor carrier's usual business operation." Thus the Public Service Commission may by rule establish the criteria by which "regular basis" is measured and may make rules describing how "part of the motor carrier's usual business operation" is to be interpreted in implementing the amendment to 69-12-314.

To implement the amendments to 69-12-407 regarding records and reports by Class D motor carriers, the Public Service Commission may amend the present rules governing the reports and records of Class A and Class B motor carriers to include Class D motor carriers. In addition, the Public Service Commission may by rule determine what will be "sufficient information" to show that a motor carrier is entitled to a Class D certificate and how the information is to be provided by the Class D motor certificate holder.

STATE OF MONTANA

REQUEST NO. 333-79

# FISCAL NOTE

*Form BD-15*

In compliance with a written request received February 13, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 473 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 473 - Revise laws relating to Class D motor carriers.

## ASSUMPTIONS:

1. Each town under 500 persons now has a garbage service - 300 towns.
2. Each carrier in these towns will receive authority - 300 new authorities.
3. Each carrier will register 1 truck under PSC law.
4. Additional personnel will be needed in the areas of enforcement, administration, and insurance.

## FISCAL IMPACT:

| | FY80 | FY81 |
|---|---|---|
| Annual report fees and vehicle registration collections under current law | $ 0 | $ 0 |
| Annual report fees and vehicle registration fee collections under proposed law | 3,000 | 3,000 |
| Additional revenues due to proposed legislation | 3,000 | 3,000 |
| Less: Additional expenditures due to proposed legislation: | | |
| Personal Services | 51,700 | 54,802 |
| Operating Expenses | 8,400 | 8,904 |
| Capital Outlay | 14,800 | 0 |
| Total | 74,900 | 63,706 |
| Net additional expenditures due to proposed legislation | $71,900 | $60,706 |

The additional cost must be funded from the State General Fund.

Richard L. Dreyer for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/22/79

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 15, 1979

The Sixteenth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Buidling at 12:30 p.m.

ROLL CALL: All members were present with Senator Healy and Manning arriving late.

CONSIDERATION OF SENATE BILL 450: Mr. William Romine, Montana Wrecking Yard Association, told the committee that as a result of Senate Bill 113, it was learned that the present law allowing the sheriff to pick up abandoned cars on private property was a mistake. Therefore Senate Bill 450 was introduced as a committee bill. This bill will allow the city police, in the city, and the sheriff, in the county, to pick up cars which have been abandoned on private property. This will protect both the city dweller and those living outside the city. There are many instances where people abandon their cars on private property. This can occur when rentors move, or in similar situations, on where a car breaks down and the owner pushes it onto private property and abandons it. This bill will relieve the innocent land owner of the expense of removal.

Chairman Etchart asked if there were any other proponents. There were none. There being no opponents or questions from the committee, the hearing was closed.

ACTION ON SENATE BILL 450: Senator Hazelbaker made the motion to DO PASS Senate Bill 450.

The committee voted unanimously to DO PASS Senate Bill 450. Motion carried.

CONSIDERATION OF SENATE BILL 452: Senator Palmer, Chief sponsor of the bill, was not present at the hearing. He had talked to Chairman Etchart, requesting that the bill be tabled for awhile. There were no proponents to SB 452.

Chairman Etchart asked if there were any opponents to SB 452.

Larry Huss, an Attorney in Helena representing the Montana Motor Carrier Association told the committee that on a nationwide basis, we have existed under basically two forms of transacting business. The one form is a controlled entry as to who may participate and the other form also controls the rates and the materials that are to be transported. This led to large mono-

polies many years ago. Senate Bill 452 attempts to take the worst of both features. The very worst would be to have a free entry into market and a controlled price. That is what Senate Bill 452 does. We have some statistics that were drawn from the Public Service Commission for motor carriers. See Exhibit "B". I would just note that from 1975 to the current date some 204 applications have been made. Out of those 65.17% were granted full authority to operate and another 21.30% had a partial authority granted. Therefore, 82.6% that came before the Commission were granted authority. This is not a consumers' bill. You don't deal with the consuming public directly. The motor carriers deal with the middlemen. The PSC has done an excellent job of assuring that the rates are reasonable. There is not a great influx of requested authorities to service small communities. With deregulation these small communities would probably suffer from lack of service because there isn't a great deal of money to be made there. When you are dealing with the motor carrier business under a regulated business the types of things that the state controls are: (1) pricing; (2) requires you to accept all shipment tendered in your area; (3) PSC has an assumative duty to insure there is adequate service available throughout the state of Montana. If there are emergencies, the Public Service Commission has authority to seek a carrier to take care of the emergency. The final thing is that the motor carrier cannot terminate his service without permission of the PSC. We hope the committee gives this a DO NOT PASS.

Chairman Etchart asked if there were any other opponents to SB 452.

Joe Rossman, Teamsters, said the bill was awfully vague in it's language. He thought it would lead to a lot of bankruptcy. The American dream of owning your own business would suffer. I think the commission is doing a good job today in regulating and providing service. I recommend a DO NOT PASS.

Chairman Etchart asked if there were any questions from the committee: There were none.

Senator Kolstad said that because of the detrimental effect of this bill, I move that we DO NOT PASS Senate Bill 452.

The committee voted unanimously to DO NOT PASS Senate Bill 452. The motion carried.

CONSIDERATION OF SENATE BILL 473: Senator B. Brown, District 10 told the committee a lot of thought went into this bill. However, some kind of problem has developed and introduced Mr. William Romine to explain.

William Romine representing the Montana Solid Waste Contractors Association said under the present law, all persons transporting property or persons for hire in Montana must have a Certificate of Public Convenience and Necessity from the Public Service Commissi There are certain exceptions, and one of them concerns the transportation of property in a city, town or village with a population

of less than 500 persons and the commercial areas thereof. This exception was alright until 1977 when a special Class D Certificate became required by Statute. Class D carriers are those that transport ashes, trash, waste, refuse, rubbish, garbage and organic and inorganic matters.

Class A, B and C carriers really do not get involved in these small communities. However, Class D carriers have certificates which cover such areas. They are required to supply their service to anyone in their area who asks for it. There could be 100 or more houses in such an area. If a person decided to go into competition with the carrier in that area, he could do so without being required to get a Class D Certificate. He could possibly siphon off 80 or 90 houses, but the Class D carrier would still have to pick up the garbage for the other 10 or 20 houses.

The Class D carriers, who are members of the Solid Waste Contractors Association, are not trying to stop competition. However, they believe that everyone should have to compete on the same basis. This Bill would not stop competition; it would only require that the prospective competitor apply for a certificate, just as everyone else does, and follow the rules and regulations of the Public Service Commission.

Section 2 of the bill only requires that a Class D carrier actually perform the services for which the certificate is issued. In 1977, many A, B and C carriers were issued Class D certificates because of a somewhat improper interpretation of the law. This section requires that all such carriers actually provide garbage and refuse service as part of their usual business. If they do not, they should not have the certificate.

Finally, Section 3 merely amends the reporting requirement, so that the Class D carriers provide the Public Service Commission, in their annual reports, sufficient information so it can be demonstrated, from the report, that the carrier is actually supplying such a service.

A Certificate of Public Convenience is an item of property, and it can be bought and sold (subject to P.S.C. approval). A Class D carrier should not be entitled to hold his certificate in a dormant state while another carrier builds up a market, and then use the certificate to the disadvantage of the carrier who has been providing the service all along. This Bill would require the carrier to provide the service or he could lose his certificate.

Chairman Etchart asked if there were any other proponents. There were none. He asked if there were any opponents.

Wayne Budt, Public Service Commission, reported the problem that the PSC has with this is the Grandfather right. There are four reasons we oppose SB 473: (1) Present Carriers - Grandfather; (2) No complaints from small towns on service; (3) Might create 200-300 more carriers, need more personnel; (4) enforcement of something that has not been regulated for over

30 years. Also, all these new carriers would have to comply with annual reports, and insurance.

Chairman Etchart asked if there were any other opponents to SB 473.

William J. Opitz, Montana Public Service Commission, said the increased expense of regulation will discourage present unregulated garbage haulers out of business, and result in small communities without service.

Chairman Etchart asked if there were any other opponents to SB 473.

Vester Wilson, Darby, MT; with the Montana Solid Waste Contractors said their basic problem is that they have to go into the areas of small towns, and when they speak of all these 300 towns, this is not the case, most of the time. Most little towns are governed by someone who is regulated by the PSC. As it is now, they don't have to have requirements under our Health Codes. There is no way they can be governed. We are not out to hurt anybody, but we feel it would help the people in these small areas to give better service. Many areas of these small towns that get picked one week may not be picked up again for three weeks. Whereas, we go in there every week. We take care of the people. We have this responsibility. Take the case of a small town and the man who hauls garbage gets ill, and the service is interupted. This is how we get into these small towns. As it is set up now, you could have the largest service in Montana and never have a license. We just feel we should have a DO PASS on this bill.

Chairman Etchart asked if there were any questions from the committee:

Senator Hazelbaker asked Wayne Budt if he leaned on Francis Bardanouve to give them more money for the insurance policies, would that work. Mr. Budt, said he doubted that.

Senator Graham asked Senator Brown if he introduced this bill because these people felt it was necessary to come under regulations about this. Senator Brown said John Belt was the original man to push this bill, because of the problem in these smaller areas.

Senator Graham stated he was leary of this bill and did not know what advantage the bill has.

William Romine said the Class "D" motor carrier is required to give service. He must give service or loose his certificate.

Senator Graham asked about the cost.

Mr. Romine, replied that they are already doing service in these areas.

Lester E. Folbog, D & F Sanitation, said the Class "D" carriers that are doing that, still will have to do that. The problem we are running into is we go to a town and pick up 5 people. Say you service this area for 8 years, giving service that is needed and the town starts to grow. Another guy decides to pick up a few extra dollars and he goes into the garbage hauling business and does so without a license. Pretty soon you get a conglomeration of people hauling garbage with no license. And here I sit, after 8 years of service, and paying insurance and license fees and filling out reports.

There being no further questions of the committee, the hearing on SB 473 was closed.

CONSIDERATION OF SENATE BILL 435: This bill was sponsored by Senator Mehrens. Senator Mehrens introduced Hank Burgess.

Hank Burgess, Parole Board, asked the committee to give serious consideration to Senate Bill 435. This bill was written by request of the Board of Pardons to relieve the pressure on the Parole Board members. These members serve four years, meeting two days a month, for hearing in Deer Lodge. In preparation for the hearing, we have to read three to five days. On occasion, board members have wanted to miss hearings for various reasons, but felt an obligation to serve in this capacity and have not taken the time off. The Board can function with two members, but are skiddish. They would rather serve with three members. This bill would allow an auxiliary board member to serve only in the absence of an individual member. We are concerned that the board member would have someone to take his place and be prepared. There is very little cost. A few meetings for orientation might be all the cost that is required.

Chairman Etchart asked if there were any other proponents to SB 435. There were none. Chairman Etchart asked if there were any opponents to SB 435. There were none. He asked if there were questions from the Committee:

Senator Kolstad asked Mr. Burgess if getting a quorum at these meetings has caused problems, because of vacancies, to carry out the duties of the Board.

Senator Graham asked if the auxiliary member would have to have special training and knowledge related to Indian background.

Mr. Burgess replied No to both Senator Kolstad and Graham.

There being no other questions from the committee the Hearing was closed.

ACTION ON SENATE BILL 435: Senator Healy made the motion to DO PASS Senate Bill 435.

The committee voted unanimously to DO PASS Senate Bill 435. The motion carried.

2-15-79

ROLL CALL

Highways COMMITTEE

46th LEGISLATIVE SESSION - 1979

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Mark Etchart, Chairman | ✓ | | |
| Tom Hager, Chairman | late ✓ | | |
| Frank W. Hazelbaker | ✓ | | |
| Allen C. Kolstad | ✓ | | |
| Carroll A. Graham | ✓ | | |
| Dave Manning | ✓ late | | |
| John E. Healy (Jack) | late ✓ | | |
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Each Day Attach to Minutes.

SENATE

DATE _____

COMMITTEE ON Highways

VISITORS' REGISTER

Please Put # of

| NAME | REPRESENTING | BILL # | Check One: Support | Check One: Oppos |
|---|---|---|---|---|
| William E. O'Leary | Mont. Bus Regulating Comm. | S.J.R. 23 | | — |
| Lyle E. Tolley | D & T Construction | 473 | ✓ | |
| Victor Wilson | Montana Solid Waste | SB473 | ✓ | |
| Wayne Burt | Mont Public Service Com | SB473 | | ✓ |
| Hank Burgess | Parole Board | SB435 | | |
| William J. Opitz | Mont. P.S.C. | SB-473 | | X |

(Please leave prepared statement with Secretary)

William L. Romine
P.O. Box 1691 Helena
Mont. Solid Waste Contractors Assn.
Support.

SENATE BILL 473.

Under the present law, all persons transporting property or persons for hire in Montana must have a Certificate of Public Convenience & Necessity from the Public Service Commission. There are certain exceptions, and one of them concerns the transportation of property in a city, town or village with a population of less than 500 persons and the commercial areas thereof. This exception was alright until 1977 when a special Class D Certificate became required by Statute. Class D carriers are those that transport ashes, trash, waste, refuse, rubbish, garbage and organic and inorganic matters.

Class A, B and C carriers really do not get involved in these small communities. However, Class D carriers have certificates which cover such areas. They are required to supply their service to anyone in their area who asks for it. There could be 100 or more houses in such an area. If a person decided to go into competition with the carrier in that area, he could do so without being required to get a Class D Certificate. He could possibly siphon off 80 or 90 houses, but the Class D carrier would still have to pick up the garbage for the other 10 or 20 houses.

The Class D carriers, who are members of the Solid Waste Contractors Association, are not trying to stop competition. However, they believe that everyone should have to compete on the same basis. This Bill would not stop competition; it would only require that the prospective competitor apply for a certificate, just as everyone else

NAME: Wayne Budt DATE: _____

ADDRESS: 1227 11th Ave

PHONE: 449-2549

REPRESENTING WHOM? Mont Public Service Comm

APPEARING ON WHICH PROPOSAL: S 473

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: 1. Prefer Carrier - Grandfather
2. No Complaints from Small towns on Service
3. Might create 200-300 more carriers need more personnel
4. Enforcement of something that has not been regulated for over 30 years

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William J. Opitz DATE: 2/15/79

ADDRESS: 2 Wood Ct. Helena, Mont.

PHONE: 443-3624

REPRESENTING WHOM? MPSC

APPEARING ON WHICH PROPOSAL: SB-473

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: The increased expense of regulation will discourage present unregulated garbage haulers out of business, and result in small communities without service.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 17, 1979

The Seventeenth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 12:30 p.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 479: Chief Sponsor of the bill is Senator Towe. This is an act providing for pre-publication notice to a candidate mentioned in a campaign advertisement by the sponsor of the advertisement and medium carrying the advertisement; and providing penalties. This bill deals with campaign practices. I think it is a matter that deals with fairness. See Bill, he read Section 1 and 2 to the committee. He told the committee that Section 4 is essential to the bill. It is my intention to make sure that the candidates are fair. He then read section 5. He told the committee that in 1974 during the primary election in Butte, which the opponent purchased an advertisement in a newspaper, in which he stated that Robert Harper voted for House Bill 402. Never the less, this bill prescribed to free birth control to teen-agers. And, in checking it out, he actually had voted against it. There was no time to act upon this. Harper lost by two votes. However, there is another law that allowed us to go into court and the situation was rectified. If this bill had been in effect, it would have been a simple matter to prove that it was wrong. There was no way, at the time the ad appeared, that he could change it or defend himself. It was too late. He had no time to publish a correction. In the last election, my opponent, on the last day day of campaigning, ran an advertisement that Towe did not live in his district. The fact is, that he does not live in the district, either. That is the purpose of this bill. Fairness to the campaign. When there is a false statement, he should be allowed to correct it.

Chairman Etchart asked if there were any opponents to SB 479.

Bill Merrick, Montana Broadcasters Association for the State of Montana. He told the committee they are in opposition to this bill for several different reasons. It concerns the electronic media and the publication media. We are not opposed to fairness in campaigning. But, there are some things that are involved here that would be pretty difficult for the broadcasting stations. On Page 1, Line 14, the content of that criticism must be proved five days prior to the election involved. To get content, is next to impossible. A lot of broadcaster advertising is done by speeches. We cannot require transcriptions by law. We would be forced to say no live appearance on broadcast media. We would have no way of knowing what the candidate would say. Now, it is possible that the publication media would know ahead of time. When you are on the air, you do not know what they will say. He then read section 2 to the committee. This is a problem, as it keeps us from broadcasting anything like "Meet your Candidate", where they speak off the cuff. The amount of

would be a large increase in court cases. This bill will increase litigation and I am sure the intention is to work out problems of collection out of court. If you pass this bill as written, this will encourage people to go to court instead of settling out of court. As far as SB 484 is concerned, there is no way to salvage. What this bill says is that the person the claim is made against must provide a rental car, with or without fault. He is really asking for first party coverage. There is no way SB 484 can be re-written in any manner.

Pat Melby, Alliance of American Insurers, said they oppose SB 483 and 484 for the same reasons as stated before. Many of the accidents involving autos are not one sided. This is not a consumer bill at all. It will be the insurance companies who get involved in the litigation. The cost of premiums will go up. Needless litigation is going to be first, because often times, even when there is no insurance or attorney's fees, these cases end up in court when they could have been settled out of court. If your auto is damaged and you have no other means of transportation, then this becomes part of the claim, and that will go to the insurance company.

Boyce Clarke, Independent Insurance Agents of Montana, told the committee he opposes SB 484 because the expense of a rental car arising out of a property damage claim is usually included in the final settlement. As I read the bill, the rental value might have to be paid a claimant, regardless of responsibility for the incident. On SB 483, he stated it is always embarassing to an agent to hear of a mishandled claim. They do happen and often originate out of indifference in claim departments. Our people follow claims, even those of a claimant, as priority business. In this case, it would seem only fair to allow these same recoveries to a successful defendant. Also, if coverage is to be broadened under the policy by statute, premium adjustments must necessarily follow.

Joe Driscoll, Insurance Department, State of Montana, said they are not taking any position on SB 484. No opposition to SB 483. We always recommend that people go to their insurance company first, then to us, not to court. As far as actual cash value, there is a law on the books that you are entitled to your replacement value. The law would support this. And, there is available a rental reimbursement coverage on insurance policies that would take care of this problem.

Chairman Etchart asked if there were any questions from the committee. Senator Hazelbaker said, if you are at fault, your premium goes up; but, if you are not at fault, it does not go up.

There being no further questions from the committee the hearing was closed.

CONSIDERATION OF SENATE BILL 473: Shaun Simon, Legislative Council passed out amendments to SB 473 to the committee. Mr. William Romine explained the amendment to the committee. See Exhibit "A".

Chairman Etchart asked if the committee knocks out Section 1,

what would happen to Section 2 and 3.

Mr. Romine said if you have a Class D Carrier permit, you must carry on garbage service, and to show in your reports that you are carrying on this service. Section 2 and 3 give this service.

Senator Hazelbaker asked if we removed Section 1, would that have an effect on the fiscal note.

Mr. Romine, said Yes.

Senator Hazelbaker said, OK, if Section one was stricken you don't need the amendment, and the fiscal note would still apply.

Chairman Etchart asked the committee what they would like to do. There are three choices, pass as is, strike section 1 and leave amendment, or kill the bill.

Senator Kolstad made the motion to strike 69-12-102 in the title, and delete Section 1 in its entirety and renumber sections. The committee voted unanimously to strike 69-12-102 in the title, and delete Section 1 in its entirety and renumber sections. The motion carried.

Senator Kolstad made the motion to DO PASS Senate Bill 473 as amended. The committee voted unanimously to DO PASS as amended. The motion carried.

ACTION ON SENATE BILL 479: Senator Kolstad stated the bill would be tough to enforce, but does cover the problem. The spite advertising that goes on in the last few days of campaigning is a problem. They publish total false voting records and there is no way you can defend the advertisement. This bill certainly does address a problem that we have in this state.

Senator Healy said he was in agreement to take out the two sections Mike Meloy wanted to strike, Section 2 and 4.

Senator Kolstad agreed that Section 4 is too stringent. Senator Kolstad made the motion to delete Section 4. The committee voted unanimously to delete Section 4. The motion carried.

Senator Kolstad made the motion to DO PASS Senate Bill 479 as amended. A roll call vote was taken, with 4 Senators voting yes, and 3 voting no. The bill passed, motion carried.

ACTION ON SENATE BILL 424: Senator Hager made the motion to reconsider action on the tie vote on Senate Bill 424. A roll call vote was taken, with 4 Senators voting no and 3 Senators voting yes. The motion failed. The bill will die in committee.

ACTION ON SENATE BILL 483: Senator Graham made the motion to DO NOT PASS Senate Bill 483. All the Senators voted yes except Senator Healy, who voted no. The motion carried.

"A"

Amendment Proposed to
Senate Bill 473.
Page 2 following line 22 Insert:
"Section 2. Implementation. All persons who have conducted a motor carrier service for the transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter by a motor vehicle in a city, town or village with a population of less than 500 persons according to the latest United States census shall upon written proof consisting of prior business records reflecting a transportation service for 1 year prior to the effective date of this act which business records shall be submitted to the commission in an informal manner, receive a certificate of public convenience and necessity as a Class D carrier. Such proof must be submitted to the commission within 4 months following the effective date of this act. Renumber: all subsequent sections."

2-11-79

ROLL CALL

Highways COMMITTEE

46th LEGISLATIVE SESSION - 1979

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Mark Etchart, Chairman | ✓ | | |
| Tom Hager, Chairman | ✓ late | | |
| Frank W. Hazelbaker | ✓ | | |
| Allen C. Kolstad | ✓ late 1 PM | | |
| Carroll A. Graham | ✓ | | |
| Dave Manning | ✓ late | | |
| John E. Healy (Jack) | ✓ late | | |
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Each Day Attach to Minutes.

SENATE

# STANDING COMMITTEE REPORT

February 17 19 79

MR. President:

We, your committee on Highways and Transportation

having had under consideration Senate Bill No. 473

Respectfully report as follows: That Senate Bill No. 473

introduced senate bill number 473 be amended as follows:

1. Title, Line 6.
Following: line 5
Strike: "69-12-102,"

2. Page 1, line 19 through line 21 on page 2.
Following: line 8
Strike: Section 1 in its entirety
Renumber: all subsequent sections

And, as so amended,
DO PASS

SENATOR MARK ETCHART Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE COMMITTEE Highways & Transportation

Date 2-17 SB Bill No. 473 Time

| NAME | YES | NO |
|---|---|---|
| Mark Etchart, Chairman | ✓ | |
| Tom V. Hager, Chairman | ✓ | |
| Frank W. Hazelbaker | ✓ | |
| Allen C. Kolstad | ✓ | |
| Carroll A. Graham | ✓ | |
| Dave Manning | ✓ | |
| John E. Healy | ✓ | |
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Secretary Fraser

Chairman Mark Etchart

Motion: Do Pass As Amended

(include enough information on motion--put with yellow copy of committee report.)

The House Highways and Transportation Committee convened on March 6, 1979, at 1:30 p.m., in room 20 of the Capital Annex, with Chairman Baeth presiding and fourteen members present (excused were Reps. Fabrega and Rosenthal), to hear testimony on the following bills.

SENATE BILL 113 SENATOR CARROLL A. GRAHAM, District 29, the chief sponsor, said this bill was at the request of the Code Commissioner and revises and clarifies the law relating to motor vehicles. He introduced the following proponent who, he said, would explain the bill.

DAVID COGLEY, Code Commissioner Staff, referred the committee members to the green summary sheets (exhibit 1) and briefly discussed the highlights. One point discussed at length was that arrests of DWI-Alcohol could now only be made on public highways and not on private property. A further summary of SB 113 is exhibit 2 of the minutes.

BILL ROMINE, speaking for self, said he favored the change mentioned above.

Mr. Cogley suggested an amendment on page 18, line 2, to strike "LICENSE" and insert "the manufacturer's identification."

SENATE BILL 304 SENATOR JEAN A TURNAGE, District 13, the chief sponsor, said this bill was at the request of the Motor Fuels Division to enlarge the definition of "special fuel dealer" to include any person providing a facility from which more than one special fuel user obtains special fuel.

NORRIS NICHOLS, Administrator, Motor Fuel Tax Division, said they have a problem which could become bigger as key locks and the like become more used. The problem, since these pumps are unattended, is to determine the tax due the state. The bill asks for a little more clarification.

Senator Turnage said this bill will give the department a chance to administer the act.

HOUSE BILL 406 SENATOR MAX CONOVER, District 36, left a copy of several amendments (exhibit 3). He said this bill will permit implement dealers within the state to transport machinery out to farms on Saturdays and Sundays. This bill would also provide for a $75 oversize permit. He said the fiscal note attached is not correct.

AVIS ANN TOBIN, Montana Hardware and Implement Association, said this bill would allow them to move their implements over the week end. She said they also favor the reduced permit rate.

BILL ROMINE, Montana Automotive Dismantlers and Recyclers Assoc., said at the present time the farmer can't move his machinery on Saturdays and Sundays. He felt this bill shouldn't just apply to the dealer.

HENRY E. LOHR, Townsend, Hank's Salvage and Recycling, spoke in support of the bill.

ART WEAVER, Great Falls, representing self, spoke in support of the bill. He said he doesn't like to deliver on a week end but there are times when it is needed. He said this would help the agricultural community.

Sen. Conover closed and the meeting was opened for questions from the committee. Rep. Keyser mentioned that custom combiners are allowed now to travel until Saturday noon. In response to a question, Don Copley, Department of Highways, said the present law permits items of harvest to be moved during that season on week ends, and farmers are allowed to move within one hundred miles of their base of operations. He said the permit would now be open ended. He said they have no position on the bill. Rep. Lien asked why it was more of a problem on week ends than on week days. Rep. Keyser said on week ends there are oversize campers and trailers as people head out for the week end which is why the restriction was put on. Mr. Weaver said as the law is now he can't deliver the machinery on a week end but the farmer can drive it down the highway--he questioned which was safer. Rep. Keyser asked Mr. Weaver if there might be a lot of shuttling of machinery from one dealer to another. Mr. Weaver didn't think so--felt this would be done during the work week.

TERRY W. BASS, Montana Contractors Assoc., signed as opposing this bill.

SENATE BILL 450 SENATOR TOM HAGER, District 30, the chief sponsor, said this would provide for the removal and disposal of abandoned motor vehicles on private property. He said now if a car is abandoned on the public right-of-way the sheriff of that county will pick it up; but if abandoned on private land it is the responsibility of the owner of the land.

BILL ROMINE, Montana Automotive Dismantlers and Recyclers Association, spoke in support of the bill. A copy of his testimony is exhibit 4 and part of the minutes.

HENRY E. LOHR, Townsend, Hank's Salvage and Recycling, spoke in support.

During questions from the committee it was brought out that sometimes wanted cars are towed away. This would be due to a request on the part of the property owner.

SENATE ~~HOUSE~~ BILL 473 BILL ROMINE, Montana Solid Waste Contractors' Assoc., introduced this bill at the request of the sponsor, SENATOR BOB BROWN, who had gone home due to illness. Mr. Romine said this bill concerns reports and activities of Class D motor carriers. He said Class D carriers haul garbage and other refuse and Class D permits were created in 1977. Under the grandfather clause, the Public Service Commission granted all Class A and B carriers a Class D permit if desired. The 1977 law intended to grandfather in only those Class A and B carriers who had transported garbage before the Class D permit was created. Giving to all was a mistake. A Class D

permit is a property right, but it also carried a duty to provide a garbage service to the public. This bill requires the Class D carrier to provide a garbage service on a regular basis as part of the carrier's ordinary business. In addition, the carrier must provide the PSC with information, in its annual report, to show that it has provided its service as a regular part or its business.

VESTER WILSON, Montana Solid Waste Contractors, Inc., spoke in support. He said of 100 Class D carriers, 28 have never hauled garbage and don't intend to. He said they can sell their Class D certificates to a big company and put the small carrier at a definite disadvantage. Mr. Wilson said he has discussed this with the garbage haulers in the state and the feeling is that even though it will mean filling out more forms, it's the only way to keep a handle on this problem.

JOHN PALAGI, Green's Disposal Service, Great Falls, said he supports this bill.

DONNA HARTLEY, Hartley's Garbage Service, Helena, spoke in support.

Meeting adjourned at 2:59 p.m.

Respectfully submitted,

William R. Baeth

WILLIAM R. BAETH, Chairman

Emelia A. Satre, Sec.

The House Highways and Transportation Committee convened on March 8, 1979, at 1:30 p.m., in room 20 of the Capital Annex, with Chairman Baeth presiding and fourteen members present (Reps. Fabrega and Magone were absent). Chairman Baeth opened the meeting to a hearing on the following bills:

SENATE BILL 435 — REPRESENTATIVE JOE F. KANDUCH, Sr., introduced this bill for SENATOR JOHN MEHRENS, District 45. Rep. Kanduch said this bill would include an auxiliary member to the Board of Pardons. He said the three members of the Board are from different parts of the state and do not take action unless all are present. As a result, in the winter and for personal reasons they have difficulty holding meetings. He said the auxiliary member would alleviate this problem to a degree as he would attend meetings when a regular member would be unable to. This member would be appointed by the governor. Rep. Kanduch said they felt he should be paid while being oriented, so a $500 appropriation is being requested.

During questions from the committee, qualifications were discussed. Bob Lane mentioned that line 17 specifies qualifications.

HOUSE JOINT RESOLUTION 50 — REPRESENTATIVE ROBERT SIVERTSEN, District 7, the chief sponsor, said the 55 mile per hour speed limit does not conserve fuel or save lives. The money spent to enforce it could be better spent if applied to safety programs. He said the 55 mile per hour speed limit was the only conservation program the President has, and even if it isn't working, it is being pushed. He said the federal government was trying to dictate to the states, that President Carter is hanging his hat on this conservation measure and imposing it with very little justification, and for that reason he is submitting this resolution to raise the speed limit to 65 miles an hour. A copy of his testimony is exhibit 1 of the minutes.

Rep. Keyser said the resolution has merit. He said trucks have to gear down to hold 55 and then put forth extra to make the hills. He said a good speed for most of them is 58 to 60.

Rep. Cooney said much of the information given by Rep. Sivertsen applies to the whole nation and not really applicable to Montana. Rep. Rosenthal mentioned that even if the saving on fuel isn't great, even a little helps--and he reminded the committee the United States does have a problem with their trade deficits--much due to oil imports. He said we often criticize the President's energy policy and he questioned how this bill was going to help in the energy area. Rep. Cooney asked why Rep. Sivertsen didn't address the issue more and encourage more fuel efficiency. Rep. Sivertsen in response to a question said there were nine states represented in Denver, he didn't know how many would be sending in this type of resolution.

Chairman Baeth opened the meeting to an executive session on the following bills:

other implement dealers and found they as a whole did not favor the bill. He said as a result of this bill implement dealers could go clear across the state on Saturday and Sunday--which is the busiest time for the public. He said farmers know their roads and if they need to move equipment will do it early when traffic is light. He said this bill would allow any width day or night and would be a tremendous hazard to the traveling public. Rep. Lien felt dealers would not deliver on Saturday or Sunday to each other but would during the working week when their regular help was on. Rep. Kropp said he was not concerned about the dealer but about the farmer and if he has to wait until Monday morning during harvest. Rep. Cooney said if the other dealers didn't like the bill they should have been at the hearing. He said he would vote to get it on the floor. Rep. Meyer said as a former International Harvester salesman he knows they do have problems moving equipment out to farms--a farmer will call and want it now. He felt the bill necessary. Rep. Woods felt others would take advantage of it and will do their moving of large equipment on Saturday and Sunday even when it is not necessary. Rep. Keyser said he didn't feel a farmer needed to have a special exception made for him or for the implement dealers to go clear across the state on Saturday and Sunday. The question was called and a roll call vote was taken on Rep. Lien's motion of be concurred in. The motion carried with 8 yes, 5 no (Feda, Frates, Keyser, Uhde, Wood) and three absent (Fabrega, Magone and Kanduch). Rep. Lien will carry the bill on the floor.

SENATE BILL 450 Rep. Feda moved the following amendments: 1) Title, line 6, strike "SECTIONS 61-8-356 AND" and insert "SECTION"; 2) page 1, strike lines 9 through 15; 3) page 2, line 2, strike "on private property." The motion to adopt these passed unanimously with those present (same absent as above bill). Rep. Feda now moved the amendments which are exhibit 3 of the minutes. These were at the suggestion of Rep. Burnett and came from some high school students at Red Lodge who wanted permission to take salvage parts from these abandoned cars. Bob Lane mentioned there was a constitutionality problem that could arise from this amendment. Rep. Lien suggested putting in a severability clause. During discussion it was felt a ruling of the Health Department could accomplish what these amendments would do. Rep. Feda withdrew his motion. Rep. Meyer moved the bill as it has been amended be concurred in. This motion carried unanimously with those present (same absent). Rep. Meyer will carry the bill on the floor.

SENATE BILL 473 Rep. Keyser moved be concurred in. Motion carried unanimously with those present (same absent). Rep. Keyser will carry this bill on the floor.

Meeting adjourned at 2:50 p.m.

Respectfully submitted,

William R. Baeth
WILLIAM R. BAETH, Chairman

Emelia A. Satre, Sec.

to. Mr. Beck said the strip near Big Timber would be finished as they had settled with a reluctant land owner. He said they did have one minor problem with an antique barn the historical society is interested in.

REP. KANDUCH closed by saying there was another resolution exactly like this one on the Senate side--except it was Senate instead of House. He said they took this route as a joint resolution would not be accepted at this time.

## EXECUTIVE SESSION

HOUSE RESOLUTION 2 Rep. Cooney moved be adopted. A voice vote was taken and carried unanimously with those present. Rep. Meyer had left a written request to vote yes and and Chairman Baeth had come in and also voted yes. Absent were Uhde and Lien.

SENATE BILL 473 The Statement of Intent had been prepared by the researcher, Bob Lane, and copies were given to all the committee members (exhibit 1). Rep. Tropila moved that the intent statement be adopted and this motion carried unanimously with those present.

The meeting adjourned at 1:50 p.m.

Respectfully submitted,

William R. Baeth
WILLIAM R. BAETH, Chairman

Emelia A. Satre, Sec.

SENATE BILL NO. 473

INTRODUCED BY B. BROWN, R. SMITH, S. BROWN, E. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS RELATING TO CLASS D MOTOR CARRIERS; AMENDING SECTIONS 69-12-102, 69-12-314, AND 69-12-407, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 69-12-102, MCA, is amended to read:~~

~~"69-12-102. Scope of chapter -- exemptions. (1) This chapter does not affect:~~

~~(a) motor vehicles used in carrying property consisting of agricultural commodities (not including manufactured products thereof) if the motor vehicles are not used in carrying other property or passengers for compensation;~~

~~(b) the operation of school buses which are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities which are sponsored or supervised by school authorities;~~

~~(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction and production is concerned;~~

~~(d) the transportation of property, except ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;~~

~~(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;~~

~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;~~

~~(g) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard; or~~

~~(h) ambulances.~~

~~(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."~~

Section 1. Section 69-12-314, MCA, is amended to read:

"69-12-314. Class D motor carrier certificate. (1) Class D carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by



REFERENCE BILL

the commission authorizing the transportation of the commodities described in 69-12-301(5). Class D carriers when applying for a new or additional authority shall file an application with the commission in accordance with the requirements of this chapter and the rules of the commission.

(2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor carrier unless the motor carrier actually engages in the transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter on a regular basis as part of the motor carrier's usual business operation."

Section 2. Section 69-12-407, MCA, is amended to read:

"69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, and Class B, or Class D motor carrier in this state, so far as the same shall relate to the business of transportation conducted by such motor carrier, shall at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of such Class A, and Class B, or Class D motor carriers, and every motor carrier authorized to operate as such in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such





uniform system, insofar as possible.

(2) On or before March 31 of each year, every motor carrier authorized to engage in such business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to such annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission such information as it shall require in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314."

-End-